

Kristensen Weisberg, LLP  
12304 Santa Monica Blvd., Suite 100  
Los Angeles, California 90025

JOHN P. KRISTENSEN (SBN 224132)  
DAVID L. WEISBERG (SBN 211675)  
**KRISTENSEN WEISBERG, LLP**  
12304 Santa Monica Blvd., Suite 100  
Los Angeles, California 90025  
Telephone: 310-507-7924  
Fax: 310-507-7906  
*john@kristensenlaw.com*  
*david@kristensenlaw.com*

*Attorneys for Plaintiff and all others similarly situated*

**THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

ANTRA JAHOVICA, on behalf of  
herself and all others similarly  
situated,

Plaintiff,

vs.

SENSAY, INC., and DOES 1  
through 20, inclusive, and each of  
them,

Defendants.

Case No.

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS  
OF:**

- (1) Violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*
- (2) Willful Violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*

**DEMAND FOR JURY TRIAL**

Plaintiff Antra Jahovica (“Plaintiff”), on behalf of herself and all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

**NATURE OF THE CASE**

1. Plaintiff brings this action for herself and others similarly situated seeking damages and any other available legal or equitable remedies resulting

1 from the illegal actions of defendant Sensay, Inc., et al. (“Defendant” or  
 2 “Sensay”) and DOES 1 through 20, in negligently knowingly, and/or willfully  
 3 contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone  
 4 Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”), thereby invading  
 5 Plaintiff’s privacy.

### 6 JURISDICTION & VENUE

7 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because  
 8 Plaintiff, a resident of California, seeks relief on behalf of a Class, which will  
 9 result in at least one class member belonging to a different state than that of  
 10 Defendant, a company with its principal place of business at 1600 Main Street,  
 11 Venice, California 90291. Plaintiff also seeks up to \$1,500.00 in damages for  
 12 each unsolicited text message in violation of the TCPA, which, when aggregated  
 13 among a proposed class in the thousands, exceeds the \$5,000,000.00 threshold  
 14 for federal court jurisdiction. Therefore, both diversity jurisdiction and the  
 15 damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are  
 16 present, and this Court has jurisdiction.

17 3. Venue is proper in the United States District Court for the Central  
 18 District of California pursuant to 18 U.S.C. §§ 1391(b) and 144(a) because  
 19 Defendant does business within the State of California and the County of Los  
 20 Angeles.

### 21 PARTIES

22 4. Plaintiff, Antra Jahovica (“Plaintiff”), is a natural person residing in  
 23 Santa Monica, California.

24 5. Defendant Sensay, Inc. (“Defendant” or “Sensay”) is a Delaware  
 25 corporation with its principal place of business at 1600 Main Street, Venice,  
 26 California 90291. Plaintiff is informed and believes that Sensay conducted and  
 27 conducts business in Los Angeles County. Sensay is qualified to and doing  
 28 business in the State of California, and may be served in this State through its

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1 registered agent: Incorporating Services, LTD at 720 14th Street, Sacramento,  
 2 California 95814.

3 6. The above named Defendant, and its subsidiaries and agents, are  
 4 collectively referred to as "Defendants." The true names and capacities of the  
 5 Defendants sued herein as DOES 1 through 20, inclusive, are currently unknown  
 6 to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the  
 7 Defendants designated herein as a DOE is legally responsible for the unlawful  
 8 acts alleged herein. Plaintiff will seek leave of Court to amend the Complaint to  
 9 reflect the true names and capacities of the DOE Defendants when such identities  
 10 become known.

11 7. Plaintiff is informed and believes and thereon alleges that at all  
 12 relevant times, each and every Defendant was acting as an agent and/or  
 13 employee of each of the other Defendants and was the owner, agent, servant,  
 14 joint venturer and employee, each of the other and each was acting within the  
 15 course and scope of its ownership, agency, service, joint venture and  
 16 employment with the full knowledge and consent of each of the other  
 17 Defendants. Plaintiff is informed and believes and thereon alleges that each of  
 18 the acts and/or omissions complained of herein was made known to, and ratified  
 19 by, each of the other Defendants.

20 8. At all times mentioned herein, each and every Defendant was the  
 21 successor of the other and each assumes the responsibility for each other's acts  
 22 and omissions.

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**FACTUAL ALLEGATIONS**

9. Beginning on or around the afternoon of October 25, 2015, Defendant contacted Plaintiff on her cellular telephone at (310) 437-\*\*\*\*, in an attempt to communicate with Plaintiff regarding services from Sensay. The original unsolicited text messages came from what are believed to be internet generated spoof numbers starting with the area code prefix (323). Defendant is known to use the number (323) 419-0633.

10. Defendant used an "automated telephone text messaging system," as defined by 47 U.S.C. § 227(a)(1) to place its unsolicited text messages to Plaintiff seeking to communicate with Plaintiff regarding services from "Sensay."

11. Defendant's unsolicited text message(s) constituted message that were not for emergency purposes as defined by 47 U.S.C. § 227(b)(1)(A).

12. Defendant's unsolicited text message(s) were placed to telephone numbers assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming unsolicited text messages pursuant to 47 U.S.C. § 227(b)(1).

13. Defendant never received Plaintiff's "prior express consent" to receive unsolicited text messages using an automated dialing system or an artificial or prerecorded message on her cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

**CLASS ALLEGATIONS**

14. Plaintiff brings this action pursuant to Rule 23 of the Federal Rules of Civil Procedure and/or other applicable law, on behalf of herself and all others similarly situated, as a member of the proposed class (hereafter "the Class") defined as follows:

All persons within the United States who received any unsolicited text messages from Defendant to said person's cellular telephone made through the use of any automatic

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1 telephone dialing system or an artificial or prerecorded  
 2 unsolicited text message and such person had not previously  
 3 provided express consent to receive such unsolicited text  
 4 messages within the four years prior to the filing of this  
 5 Complaint

6 15. Plaintiff represents, and is a member of the Class, consisting of All  
 7 persons within the United States who received any unsolicited text message from  
 8 Defendant to said person's cellular telephone made through the use of any  
 9 automatic telephone dialing system or an artificial or prerecorded unsolicited text  
 10 message and such person had not previously not provided their cellular telephone  
 11 number to Defendant within the four years prior to the filing of this Complaint.

12 16. Excluded from the Class are governmental entities, Defendants, any  
 13 entity in which Defendants have a controlling interest, and Defendants' officers,  
 14 directors, affiliates, legal representatives, employees, co-conspirators, successors,  
 15 subsidiaries, and assigns. Also excluded from the Class are any judges, justices  
 16 or judicial officers presiding over this matter and the members of their immediate  
 17 families and judicial staff.

18 17. This action is properly maintainable as a class action. This action  
 19 satisfies the numerosity, typicality, adequacy, predominance and superiority  
 20 requirements for a class action.

21 18. **Numerosity:** The proposed Class is so numerous that individual  
 22 joinder of all members is impracticable. Due to the nature of the trade and  
 23 commerce involved, Plaintiff does not know the number of members in the  
 24 Class, but believes the Class members number in the thousands, if not more.  
 25 Plaintiff alleges that the Class may be ascertained by the records maintained by  
 26 Defendants.

27 19. Plaintiff and members of the Class were harmed by the acts of  
 28 Defendant(s) in at least the following ways: Defendant(s) illegally contacted

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Plaintiff and Class members via their cellular telephones thereby causing Plaintiff and Class members, without their “prior express consent,” to incur certain charges or reduced telephone time for which Plaintiff and Class members had previously paid by having to retrieve or administer message(s) left by Defendant during those illegal calls, and invading the privacy of said Plaintiff and Class members.

20. **Common Questions of Law and Fact Predominate:** There are only a few legal and factual issues to determine if there is liability under the TCPA and for each of those questions of law and fact, common issues to the Class predominate over any questions that may affect individual Class members, in that the claims of all Class members for each of the claims herein can be established with common proof. Common questions of fact and law include, but are not limited to, the following:

- (a) Whether, within the four years prior to the filing of this Complaint, Defendant(s) made any unsolicited text messages (other than a text message made for emergency purposes or made with the prior express consent of the messaged party) to a Class member using any automated dialing system or an artificial or prerecorded unsolicited text message to any telephone number assigned to a cellular telephone service;
- (b) Whether Plaintiff and the Class members were damaged thereby, and the extent of the statutory damages for each such violation; and
- (c) Whether the Defendant(s) should be enjoined from engaging in such conduct in the future.

21. **Typicality:** Plaintiff’s claims are typical of the claims of members of the Class, as Plaintiff was subject to the same common course of conduct by Defendant(s) as all Class members. The injuries to each member of the Class



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1 were caused directly by Defendant(s)' wrongful conduct as alleged herein.

2 22. **Adequacy of Representation:** Plaintiff will fairly and adequately  
3 represent and protect the interests of the Class. Plaintiff has retained counsel with  
4 substantial experience in handling complex class action litigation. Plaintiff and  
5 her counsel are committed to prosecuting this action vigorously on behalf of the  
6 Class and have financial resources to do so.

7 23. **Superiority of Class Action:** A class action is superior to other  
8 available methods for the fair and efficient adjudication of the present  
9 controversy. Class members have little interest in individually controlling the  
10 prosecution of separate actions because the individual damage claims of each  
11 Class member are not substantial enough to warrant individual filings. In sum,  
12 for many, if not most, Class members, a class action is the only feasible  
13 mechanism that will allow them an opportunity for legal redress and justice.  
14 Plaintiff is unaware of any litigation concerning the present controversy already  
15 commenced by members of the Class. The conduct of this action as a class action  
16 in this forum, with respect to some or all of the issues presented herein, presents  
17 fewer management difficulties, conserves the resources of the parties and of the  
18 court system, and protects the rights of each Class member.

19 24. Moreover, individualized litigation would also present the potential  
20 for varying, inconsistent, or incompatible standards of conduct for Defendant(s),  
21 and would magnify the delay and expense to all parties and to the court system  
22 resulting from multiple trials of the same factual issues. The adjudication of  
23 individual Class members' claims would also, as a practical matter, be  
24 dispositive of the interests of other members not parties to the adjudication, and  
25 could substantially impair or impede the ability of other Class members to  
26 protect their interests.

27 25. Plaintiff and the members of the Class have suffered and will  
28 continue to suffer harm as a result of Defendant(s)' unlawful and wrongful

1 conduct. Defendant(s) have acted, or refused to act, in respects generally  
 2 applicable to the Class, thereby making appropriate final and injunctive relief  
 3 with regard to the members of the Class as a whole.

#### 4 **FIRST CAUSE OF ACTION**

5 **(VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT,**  
 6 **47 U.S.C. *ET SEQ.*)**

7 **(Against All Defendants)**

8 26. Plaintiff hereby incorporates by reference and re-alleges each and  
 9 every allegation set forth in each and every preceding paragraph of this  
 10 Complaint, as though fully set forth herein.

11 27. The foregoing acts and omission of Defendants constitute numerous  
 12 and multiple violations of the TCPA, including but not limited to each and every  
 13 one of the above cited provisions of 47 U.S.C. § 227, *et seq.*

14 28. As a result of Defendant(s)' violations of 47 U.S.C. § 227, *et seq.*,  
 15 Plaintiff and the Class Members are entitled to an award of \$500.00 in statutory  
 16 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

17 29. Plaintiff and the Class members are also entitled to and seek  
 18 injunctive relief prohibiting such conduct in the future.

#### 19 **SECOND CAUSE OF ACTION**

20 **(KNOWING AND/OR WILLFUL VIOLATION OF**  
 21 **THE TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. *ET SEQ.*)**

22 **(Against All Defendants)**

23 30. Plaintiff hereby incorporates by reference and re-alleges each and  
 24 every allegation set forth in each and every preceding paragraph of this  
 25 Complaint, as though fully set forth herein.

26 31. The foregoing acts and omissions of Defendant(s) constitute  
 27 numerous and multiple knowing and/or willful violations of the TCPA, including  
 28 but not limited to each and every one of the above cited provisions of 47 U.S.C.

**CLASS ACTION COMPLAINT**

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 12304 Santa Monica Blvd., Suite 100  
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1 § 227, *et seq.*

2 32. As a result of Defendant(s)' violations of 47 U.S.C. § 227, *et seq.*,  
3 Plaintiff and the Class Members are entitled to an award of \$1,500.00 in statutory  
4 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and  
5 47 U.S.C. § 227(b)(3)(C).

6 33. Plaintiff and the Class members are also entitled to and seek  
7 injunctive relief prohibiting such conduct in the future.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for  
10 relief and judgment as follows:

11 1. An order certifying this action as a class action and appointing  
12 Plaintiff and her counsel to represent the Class;

13 2. For the first cause of action:

- 14 • Plaintiff and Class members are entitled to and request \$500.00  
15 in statutory damages, for each and every violation, pursuant to 47  
16 U.S.C. § 227, *et seq.*;
- 17 • Preliminary and permanent injunctive relief enjoining  
18 Defendant(s), their agents, servants and employees, and all  
19 persons acting in concert with them, from engaging in, and  
20 continuing to engage in, the unlawful calls and text messages  
21 made with automated dialing systems to cellular phones without  
22 prior express consent;
- 23 • Attorneys' fees, costs and any and all other relief that the Court  
24 deems just and proper.

25 3. For the second cause of action:

- 26 • Plaintiff and Class members are entitled to and request \$1,500.00  
27 in statutory damages, for each and every violation, pursuant to  
28 47 U.S.C. § 227, *et seq.*;

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- Preliminary and permanent injunctive relief enjoining Defendant(s), their agents, servants and employees, and all persons acting in concert with them, from engaging in, and continuing to engage in, the unlawful calls made with automated dialing systems to cellular phones without prior express consent;
- Attorneys' fees, costs and any and all other relief that the Court deems just and proper.

Dated: November 5, 2015

Respectfully submitted,

By: /s/ John P. Kristensen

John P. Kristensen (SBN 224132)  
*john@kristensenlaw.com*  
David L. Weisberg (SBN 211675)  
*david@kristensenlaw.com*  
**KRISTENSEN WEISBERG, LLP**  
12304 Santa Monica Blvd., Suite 100  
Los Angeles, California 90025  
Telephone: (310) 507-7924  
Fax: (310) 507-7906

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a trial by jury for all such triable claims.

3  
4 Dated: November 5, 2015

Respectfully submitted,

5 By: /s/ John P. Kristensen

6 John P. Kristensen (SBN 224132)

7 *john@kristensenlaw.com*

8 David L. Weisberg (SBN 211675)

9 *david@kristensenlaw.com*

10 **KRISTENSEN WEISBERG, LLP**

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13 Telephone: (310) 507-7924

14 Fax: (310) 507-7906

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